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EXHIBITS

MISCELLANEOUS DOCUMENTS



LOS ANGELES COUNTY DISTRICT ATTORNEY'S OFFICE
BUREAU OF FRAUD AND CORRUPTION PROSECUTIONS
JUSTICE SYSTEM INTEGRITY DIVISION

JACKIE LACEY • District Attorney
JOHN K. SPILLANE • Chief Deputy District Attorney
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November 1, 2017

Captain Christopher Bergner
Los Angeles County Sheriff's Department
Homicide Bureau
1 Cupania Circle
Monterey Park, California 91755



Re: Officer-Involved Shooting of Deon Butler
J.S.I.D. File #16-0075
L.A.S.D File No. 016-03979-1366-053

Dear Captain Bergner:

The Justice System Integrity Division of the Los Angeles County District Attorney's Office has completed its review of the February 20, 2016, non-fatal shooting of Deon Butler by Los Angeles County Sheriff's Department Deputies [redacted] and Curtis Brown. Our detailed analysis of this incident is contained in the attached memorandum.

Very truly yours,

JACKIE LACEY
District Attorney

SHANNON PRESBY
Head Deputy District Attorney
Justice System Integrity Division

c: Deputy [redacted] #[redacted]
Deputy Curtis Brown, #[redacted]

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MEMORANDUM

TO: CAPTAIN CHRISTOPHER BERGNER
Los Angeles County Sheriff's Department
Homicide Bureau
1 Cupania Circle
Monterey Park, California 91755

FROM: JUSTICE SYSTEM INTEGRITY DIVISION
Los Angeles County District Attorney's Office

SUBJECT: Officer-Involved Shooting of Deon Butler
J.S.I.D. File #16-0075
L.A.S.D. File #016-03979-1366-053

DATE: November 1, 2017

The Justice System Integrity Division of the Los Angeles County District Attorney's Office has completed its review of the February 20, 2016, non-fatal shooting of Deon Butler by Los Angeles County Sheriff's Department (LASD) Deputies [redacted] and Curtis Brown. It is our conclusion that [redacted] and Brown acted in lawful self-defense and defense of others.

The District Attorney's Command Center was notified of the shooting on February 20, 2016, at 11:33 p.m. The District Attorney Response Team (DART) responded and was given a briefing and a walk-through of the scene.

The following analysis is based upon investigative reports, analyzed evidence reports, dispatch recordings, photographic evidence, and witness statements taken during the investigation by LASD, and submitted to this office by Detectives Michael Rodriguez and Angus Ferguson. The voluntary statements of Deputies [redacted] and Brown were considered in this analysis.

FACTUAL ANALYSIS

On February 20, 2016, at approximately 9:25 p.m, LASD Deputy [redacted] was driving an unmarked gray Ford Crown Victoria containing Deputies [redacted] Curtis Brown, and civilian Crime Analyst Anthony Martinez, when they spotted a gold Ford Taurus traveling at a high rate of speed while northbound on Orange Avenue near Alondra Boulevard in Paramount.[1] The Ford Taurus was being driven by Deon Butler and contained front passenger Reginald Dillard and his [redacted] back passenger [redacted] They were not wearing seatbelts in violation of California

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[1] All three deputies were wearing their department-issued, class A uniform with a badge and name plate on the front, shoulder patches on both shoulders, and a Sam Browne gun belt. They had been conducting saturation patrol in the area due to a string of recent armed robberies. [redacted] was seated in the front passenger's seat while Brown and Martinez were in the back seats.

Vehicle Code (C.V.C.) section 27315(d)(1) and Butler was speeding in violation of C.V.C. section 22350.

[redacted] followed the Ford Taurus as it turned eastbound onto Myrrh Street and started to drive in an erratic fashion by intermittently slowing down to approximately five miles per hour as if it were going to pull over. Mid-block on Myrrh Street, [redacted] activated his vehicle's front red and blue lights, and periodically sounded the siren, in order to conduct a traffic stop. The Ford Taurus did not yield and instead turned northbound onto the 15100 block of Gundry Avenue at a very slow rate of speed.[2] The vehicle then turned onto the driveway apron of the residential property located at [redacted] Gundry Avenue and stopped before a closed gate.[3] [redacted] and Brown believed that the Ford Taurus was placed into park because the vehicle had stopped and the brake lights were no longer activated. [redacted] parked the Crown Victoria just south of the Ford Taurus and facing north on Gundry Avenue. Weapons drawn [redacted] and Brown approached the passenger side of the Ford Taurus while [redacted] positioned himself at the driver's side. Martinez remained seated in the Crown Victoria's backseat.

As he approached [redacted] saw Dillard with one or both hands out of the window. [redacted] stated multiple times, "Let me see your hands." As he neared Dillard, [redacted] observed Dillard pick up a black, semiautomatic handgun. [redacted] yelled out "gun" to his partners. At this moment, [redacted] saw Butler look in his direction and then over Butler's right shoulder. Brown, who had been following behind [redacted] when he heard [redacted] warning, heard the Ford Taurus' engine "rev" and saw the brake lights activate.

Butler then abruptly and rapidly accelerated his vehicle backwards in a three-point turn. As this was happening, [redacted] saw the firearm now near the dashboard where Dillard had at least one of his hands. The vehicle continued to back up and during the turn, the front of the Ford Taurus swung towards [redacted] He attempted to protect himself from being struck by extending his left hand to brace himself against the vehicle. Despite this, the front of the vehicle struck [redacted] in his right shin causing him to "almost trip" as he moved out of the way.[4] Observing [redacted] attempt to avoid the Ford Taurus, [redacted] believed that both [redacted] and Brown were in the kill zone of Butler's direction of travel, and that they had nowhere to go. Fearing for the lives of [redacted] and Brown, [redacted] stated that he fired approximately ten rounds from his duty weapon at Butler to stop the threat.[5]

As Butler continued to reverse at an approximate 45-degree angle, Brown saw Dillard slightly hunched over and leaned back in his seat. He was holding a black, semiautomatic firearm and

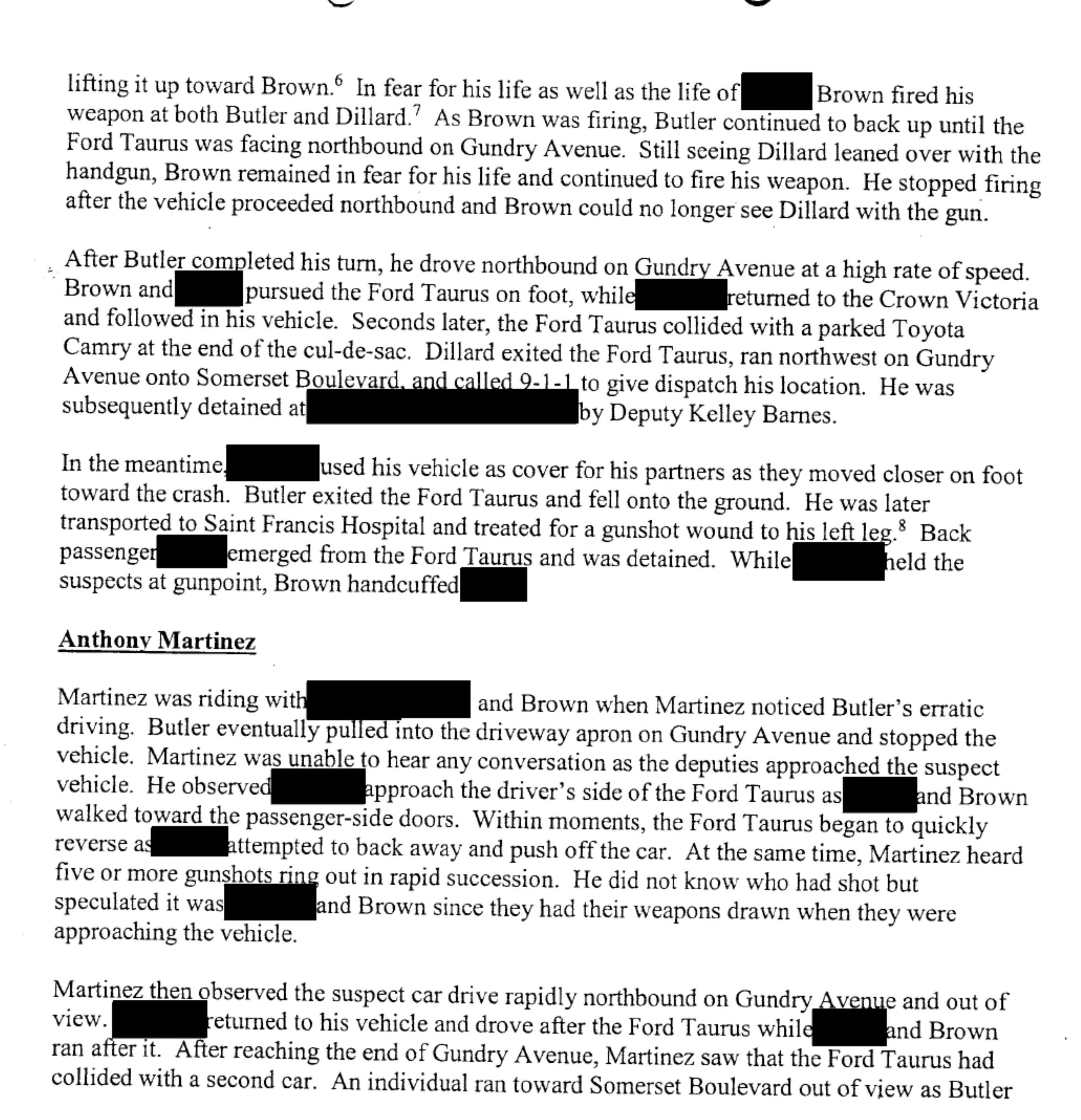
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[2] It was Brown's impression that Butler was either drunk or looking for a place to park because his brake lights turned on and off, but he failed to stop.

[3] Gundry Avenue is a densely-populated, residential neighborhood with parked vehicles lining both sides of the street. Dillard and Gales lived at [redacted] which is an apartment complex across the street from the location where Butler stopped the Ford Taurus.

[4] [redacted] sustained swelling and redness to his right shin and was treated at Kaiser Hospital.

[5] At the time of the shooting, [redacted] duty weapon, a Smith & Wesson model M&P9, 9mm semiautomatic pistol, contained the maximum capacity of 17 rounds in the magazine and one in the chamber for a total of 18 rounds. The pistol was recovered with five live rounds in the magazine and one in the chamber. [redacted] fired 12 rounds during the incident.



lifting it up toward Brown.[6] In fear for his life as well as the life of [redacted] Brown fired his weapon at both Butler and Dillard.[7] As Brown was firing, Butler continued to back up until the Ford Taurus was facing northbound on Gundry Avenue. Still seeing Dillard leaned over with the handgun, Brown remained in fear for his life and continued to fire his weapon. He stopped firing after the vehicle proceeded northbound and Brown could no longer see Dillard with the gun.

After Butler completed his turn, he drove northbound on Gundry Avenue at a high rate of speed. Brown and [redacted] pursued the Ford Taurus on foot, while [redacted] returned to the Crown Victoria and followed in his vehicle. Seconds later, the Ford Taurus collided with a parked Toyota Camry at the end of the cul-de-sac. Dillard exited the Ford Taurus, ran northwest on Gundry Avenue onto Somerset Boulevard, and called 9-1-1 to give dispatch his location. He was subsequently detained at [redacted] by Deputy Kelley Barnes.

In the meantime, [redacted] used his vehicle as cover for his partners as they moved closer on foot toward the crash. Butler exited the Ford Taurus and fell onto the ground. He was later transported to Saint Francis Hospital and treated for a gunshot wound to his left leg.[8] Back passenger [redacted] emerged from the Ford Taurus and was detained. While [redacted] held the suspects at gunpoint, Brown handcuffed [redacted]

Anthony Martinez

Martinez was riding with [redacted] and Brown when Martinez noticed Butler's erratic driving. Butler eventually pulled into the driveway apron on Gundry Avenue and stopped the vehicle. Martinez was unable to hear any conversation as the deputies approached the suspect vehicle. He observed [redacted] approach the driver's side of the Ford Taurus as [redacted] and Brown walked toward the passenger-side doors. Within moments, the Ford Taurus began to quickly reverse as [redacted] attempted to back away and push off the car. At the same time, Martinez heard five or more gunshots ring out in rapid succession. He did not know who had shot but speculated it was [redacted] and Brown since they had their weapons drawn when they were approaching the vehicle.

Martinez then observed the suspect car drive rapidly northbound on Gundry Avenue and out of view. [redacted] returned to his vehicle and drove after the Ford Taurus while [redacted] and Brown ran after it. After reaching the end of Gundry Avenue, Martinez saw that the Ford Taurus had collided with a second car. An individual ran toward Somerset Boulevard out of view as Butler

[6] Brown's own weapon was drawn at this time and his gun light illuminated Dillard pointing the weapon at him.

[7] At the time of the shooting, Brown's duty weapon, a Smith & Wesson model M&P9, 9mm semiautomatic pistol, contained the maximum capacity of 17 rounds in the magazine and one in the chamber for a total of 18 rounds. The weapon was recovered with one live round in the magazine and one in the chamber. Brown fired 16 rounds during the incident.

[8] Butler sustained a broken femur, but was in stable condition. The fired bullet core recovered from Butler was later determined to have no microscopic comparison value. Upon examination of the Ford Taurus, investigators observed that one of the five possible bullet impact marks on the driver-side door penetrated into the vehicle's interior. The penetrating round was low in the door, traveled through the interior "map pocket" on the door, and into the lower left cushion of the driver's seat where blood was present.

exited his car and fell to the ground [redacted] then stepped out of the car with his hands raised above his head and laid on the ground in a prone position.

[redacted]

[redacted] was driving northbound on Orange Avenue when he noticed the police vehicle attempting to stop the suspect vehicle, which did not slow or attempt to pull over. [redacted] saw the suspect vehicle finally stop on Gundry Avenue, and deputies approached the car with their weapons possibly drawn.[9] As this occurred, the suspect vehicle rapidly reversed towards the passenger-side deputies, and [redacted] saw one of the deputies on the passenger's side shuffle back and place his hands on the suspect vehicle in order to push himself off. At the same time, [redacted] heard several gunshots in rapid succession, but he was unable to see if anything or anyone had been struck. The suspect vehicle then raced northbound on Gundry Avenue while the deputies gave chase.

Deon Butler

According to Butler, he was driving to [redacted] and Dillard's house with the two [redacted] when he noticed a patrol car behind him activate its red and blue lights. The street was lined with vehicles and there was no place to pull over, but Butler believed that he made a mistake by not stopping. Although Dillard told him repeatedly to pull over, Butler felt nervous, panicked, and that something bad was going to happen. After he turned into a driveway across from where Dillard [redacted] on Gundry Avenue, he became nervous and started backing out.[10] Butler gunned the engine to back out faster when he heard shots in his direction.

When he had backed out completely and was once again on Gundry Avenue, Butler noticed a deputy with his gun drawn on the driver's side of the Ford Taurus. He did not see the police outside their vehicle prior to this point, and did not hear any commands. Butler stated that he did not intend to strike anyone with his vehicle and did not know he had hit a deputy.[11] Once the Ford Taurus faced northbound, Butler drove towards the end of the cul-de-sac at approximately 50 miles per hour. As he neared the end, Butler tried to slow down but collided into a parked vehicle. Dillard exited the car and ran away. Butler intended to do the same but upon opening the door, he collapsed to the ground and was detained. He denied that he or anyone else in the Ford Taurus possessed a firearm at any time.

Butler was charged in Los Angeles Superior Court case TA139484 with two counts of assault upon a peace officer, in violation of Penal Code (P.C.) section 245(c). On January 12, 2017, he pled guilty to an amended count of assault by means likely to produce great bodily injury, in violation of P.C. section 245(a)(4), and was sentenced to one year in state prison.

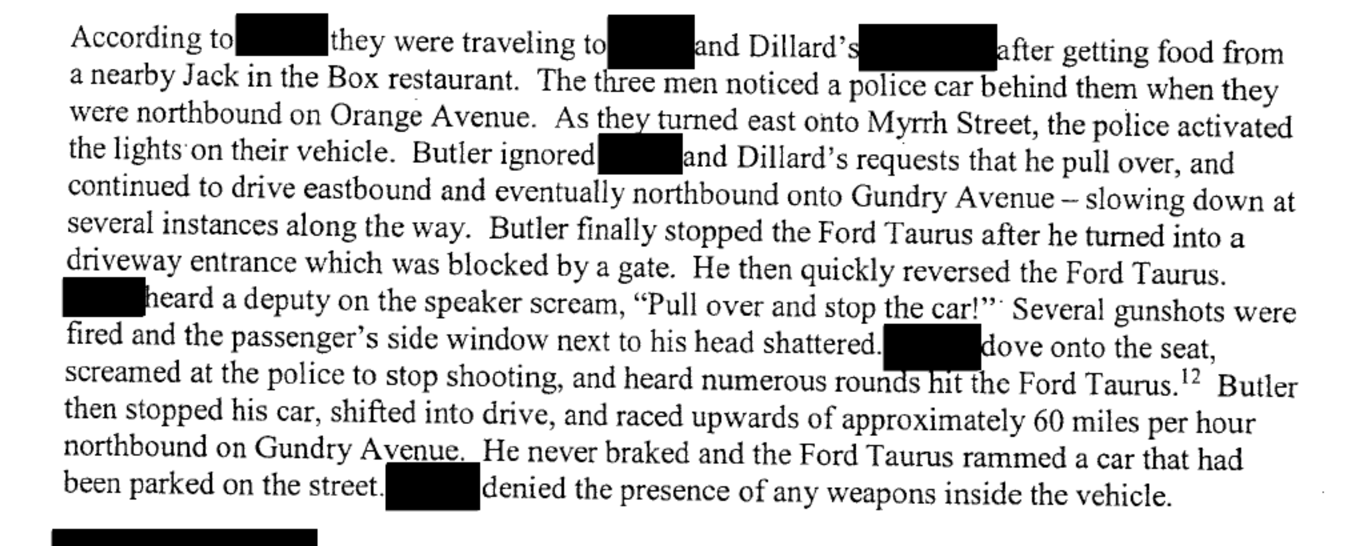
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[9] [redacted] believed he saw three to four deputies approach the suspect vehicle.

[10] Butler stated that he is nervous around police because circa [redacted]

[11] Butler believed that most of the gunfire occurred as he was backing out. He was not sure whether additional rounds were fired once he started driving down Gundry Avenue.

[redacted]



According to [redacted] they were traveling to [redacted] and Dillard's [redacted] after getting food from a nearby Jack in the Box restaurant. The three men noticed a police car behind them when they were northbound on Orange Avenue. As they turned east onto Myrrh Street, the police activated the lights on their vehicle. Butler ignored [redacted] and Dillard's requests that he pull over, and continued to drive eastbound and eventually northbound onto Gundry Avenue – slowing down at several instances along the way. Butler finally stopped the Ford Taurus after he turned into a driveway entrance which was blocked by a gate. He then quickly reversed the Ford Taurus. [redacted] heard a deputy on the speaker scream, "Pull over and stop the car!" Several gunshots were fired and the passenger's side window next to his head shattered. [redacted] dove onto the seat, screamed at the police to stop shooting, and heard numerous rounds hit the Ford Taurus.[12] Butler then stopped his car, shifted into drive, and raced upwards of approximately 60 miles per hour northbound on Gundry Avenue. He never braked and the Ford Taurus rammed a car that had been parked on the street. [redacted] denied the presence of any weapons inside the vehicle.

[redacted]

[redacted] told investigators that he was near the northwest corner of San Marino Avenue and Somerset Boulevard when he heard a commotion from the south side of Somerset Boulevard. He walked toward the noise and saw that it originated from the dead end of Gundry Avenue. [redacted] then saw an African-American man running in a northerly direction from Gundry Avenue across Somerset Boulevard.[13] The man had what looked like a black handgun in his hand and [redacted] saw him throw it into the air as he neared the church located in the area. [redacted] thought the object was thrown into the fenced-in portion of the church property.

Reginald Dillard

According to Dillard, they were traveling to his house after stopping at a liquor store and Jack in the Box restaurant when the deputies attempted to pull over the Ford Taurus. Butler uttered something like "oh shit," continued to drive, and did not heed Dillard's requests to pull over. He did not know why Butler refused to pull over, so Dillard rolled down the front, passenger-side window and stuck his hands out the window while on Myrrh Avenue. He wanted to convey that Butler's actions were "out of [Dillard's] hands."[14] When Butler turned into the driveway apron on Gundry Avenue and stopped, Dillard recalled that he had a large, black cellphone in his hands. He did not think it was in his hands when they were sticking out of the window. When Butler rapidly reversed the Ford Taurus, Dillard's body moved in a jerking motion, and his left hand held the cellphone while his right hand was possibly near the automatic window toggle switch. Seconds later, he heard gunfire from outside the passenger-side of the Ford Taurus and crouched down with one or both hands holding his cellphone. At some point during the incident,

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[12] Investigators later observed at least six impact marks on the passenger side of the suspect vehicle. The front and rear passenger doors each contained three impact marks.

[13] [redacted] described the male as approximately 27 years old, 5'8", and 160 pounds. Dillard is an African-American male who was 34 years old at the time, 6'0", and 200 pounds.

[14] [redacted] who saw the suspect vehicle followed by the unmarked police car with its lights and sirens activated, saw that the front passenger of the suspect vehicle appeared to have his hands sticking out the passenger-side window. She subsequently heard gunshots after she turned away, but she did not witness the shooting.

Dillard recalled that he looked to his right side but could not see anything because it was dark. As Butler sped away, Dillard told him to slow down but they collided into a parked car.

Dillard then ran northbound across Somerset Boulevard and approximately one minute after the shooting was broadcast over the police radio, he called 9-1-1. He informed the 9-1-1 operator of his name, clothing description, location, and that he lived in the neighborhood. Dillard asked that the police not shoot him, and explained that he had been in the vehicle with Butler who "started running from the police" for unknown reasons as they had just been to Jack in the Box. He stayed on the telephone with the operator until surrendering to Barnes a few minutes later.[15] In later interviews with investigators, Dillard indicated that he was in fear for his life when he ran from the Ford Taurus. He adamantly denied possessing a firearm at any time – speculating that perhaps his "big, black phone" had been mistaken for a gun. Dillard also denied throwing any objects as he was running, and agreed to submit to a polygraph test if requested.[16]

Search for Firearm

In the aftermath, several teams of investigators thoroughly searched Somerset Boulevard and its vicinity, including around the church that [redacted] had mentioned. The search teams utilized a canine as well as a helicopter from LASD's Aero Bureau. An additional search, again including a helicopter, was conducted in the morning hours. The teams were unable to locate any firearms.

LEGAL ANALYSIS

California law permits the use of deadly force in self-defense or in the defense of others if that person actually and reasonably believed that he or others were in imminent danger of great bodily injury or death. Penal Code § 197; *People v. Randle* (2005) 35 Cal.4th 987, 994 (overruled on another ground in *People v. Chun* (2009) 45 Cal.4th 1172, 1201); *People v. Humphrey* (1996) 13 Cal.4th 1073, 1082; *see also,* CALCRIM No. 505. In protecting himself or another, a person may use all the force which he believes reasonably necessary and which would appear to a reasonable person, in the same or similar circumstances, to be necessary to prevent the injury which appears to be imminent. CALCRIM No. 3470.

"The reasonableness of the particular force used must be judged from the perspective of a reasonable officer on the scene, rather than with the 20/20 vision of hindsight." *Graham v. Connor* (1989) 490 U.S. 386, 396. "The calculus of reasonableness must embody allowance for the fact that police are often forced to make split-second judgments—in circumstances that are tense, uncertain, and rapidly evolving—about the amount of force that is necessary in a particular situation." *Id.* at 396-97. The test for whether an officer's actions were objectively reasonable is "highly deferential to the police officer's need to protect himself and others." *Munoz v. City of Union City* (Ct. App. 1st Dist. 2004) 16 Cal.Rptr.3d 521, 540.

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[15] At the time of his detention, Dillard yelled, "I'm right here," to Barnes, raised his hands, and placed a black cellphone on the ground in front of him. Dillard sustained a dime-sized abrasion on his forehead which he believed was caused by the airbag when it deployed. He was transported to the Lakewood Regional Hospital for treatment, and the treating physician agreed that the abrasion was consistent with an airbag injury.

[16] No polygraph tests were requested.

Actual danger is not necessary to justify the use of deadly force in self-defense. If one is confronted by the appearance of danger which one believes, and a reasonable person in the same position would believe, would result in death or great bodily injury, one may act upon those circumstances. The right of self-defense is the same whether the danger is real or merely apparent. *People v. Toledo* (1948) 85 Cal.App.2d 577; *see also, People v. Minifie* (1996) 13 Cal.4th 1055, 1068; *People v. Clark* (1982) 130 Cal.App.3d 371, 377; *People v. Collins* (1961) 189 Cal.App.2d 575, 588.

The evidence examined shows that Butler's actions placed [redacted] and Brown in reasonable and actual fear of imminent death or great bodily harm to [redacted] and Brown. When [redacted] attempted to conduct a traffic stop on the Ford Taurus, Butler continued to drive in an erratic fashion down both Myrrh Street and Gundry Avenue. When Butler eventually stopped the vehicle, the deputies approached with heightened awareness due to Butler's erratic driving and non-compliance. With their weapons drawn, the deputies neared the Ford Taurus, and [redacted] observed Butler look in his direction before looking at [redacted] who had just yelled out "gun." Butler then rapidly reversed in a sweeping motion, and [redacted] saw that [redacted] attempted to push off the vehicle to avoid being struck. As he did this, [redacted] also noticed Brown in the path of the Ford Taurus, and believed that both he and [redacted] were in the kill zone and had nowhere to go. Fearing for the lives of his partners, [redacted] fired 12 rounds at Butler.

Before the shots had been fired, Brown followed [redacted] as the two deputies approached the Ford Taurus. As Brown heard Ibarra yell "gun," he saw the vehicle's brake lights activate and heard the engine "rev." The Ford Taurus then quickly reversed and hit [redacted] who reacted by striking at the vehicle. As Butler continued to reverse, Brown believed that he saw Dillard pointing a gun at him. Although in the aftermath Dillard vehemently denied possessing a handgun and maintained that he had only held a large, black cellphone in his hands – during the seconds Brown observed the vehicle continuing in its path towards himself and [redacted] Butler had created a tense, uncertain, and rapidly-escalating situation which forced Brown to make a split-second judgment.

Even had Dillard not posed an actual danger toward the deputies, Butler's actions alone had placed Brown in actual and reasonable fear that he and [redacted] were in imminent danger of great bodily injury or death from both men. Thus in order to protect himself and [redacted] Brown fired 16 rounds at both Butler and Dillard. The fact that the deputies actually believed that Dillard possessed a firearm can thereafter be seen in their cautious approach of the Ford Taurus after it had collided with the Toyota Camry. [redacted] used his Crown Victoria as cover as his partners moved closer to the suspect vehicle. He then held both [redacted] and Butler at gunpoint while Brown handcuffed [redacted]

CONCLUSION

We find that Deputies [redacted] and Brown acted in lawful self-defense and in defense of others. We are therefore closing our file and will take no further action in this matter.